



COMMONWEALTH OF PENNSYLVANIA



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May 11, 2021

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Rulemaking to Amend the Provisions of 52 Pa.
Code, Chapter 56 to Comply with the Amended
Provisions of 66 Pa. C.S. Chapter 14
Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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*308448

CERTIFICATE OF SERVICE

Re: Rulemaking to Amend the Provisions :
of 52 Pa. Code, Chapter 56 to Comply : Docket No. L-2015-2508421
with the Amended Provisions of 66 Pa. :
C.S. Chapter 14 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 11th day of May 2021.

SERVICE BY E-MAIL ONLY

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Dated: May 11, 2021
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions of :
52 Pa. Code, Chapter 56 to Comply with : Docket No. L-2015-2508421
the Amended Provisions of :
66 Pa. C.S. Chapter 14 :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: May 11, 2021

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I. INTRODUCTION

On February 18, 2017, the Pennsylvania Public Utility Commission's (Commission) Notice of Proposed Rulemaking Order in the above-captioned docket was published in the *Pennsylvania Bulletin*. 47 Pa.B. 965. Through this Rulemaking, the Commission proposed amendments and modifications to its regulations regarding Standards and Billing Practices for Residential Utility Service found at 52 Pa. Code Chapter 56 (Chapter 56). The primary purpose of the Proposed Rulemaking was to promulgate regulations to implement the amendments to provisions of Chapter 14 of the Public Utility Code. 66 Pa. C.S. §§ 1401-1418. Chapter 14, also known as the Responsible Utility Consumer Protection Act, was signed into law by Governor Rendell on November 30, 2004. On October 22, 2014, Governor Corbett signed Act 155 of 2014 into law, which reauthorized and amended Chapter 14. Chapter 14 applies to electric distribution companies (EDCs), natural gas distribution companies (NGDCs), water distribution utilities, wastewater utilities, and steam heat utilities.

As part of this rulemaking, the Commission sought comments on issues such as privacy guidelines, cost of compliance, credit methodology, protection from abuse orders, switching of electric generation service, the burden of proof for informal complaints, the 90-day deposit period, collections reporting, and amending the definitions of applicant, customer, and public utility. Proposed Rulemaking Order at 4-5. On April 19, 2017, the OCA submitted comments on the issues raised in the Proposed Rulemaking Order. See OCA Comments (filed Apr. 19, 2017). On July 13, 2017, the Commission entered an Order seeking additional comments on privacy guidelines, data on the usage of medical certificates, the cost and impact of regulatory changes, third-party notification of supplier switching, and customer retention of utility service pending formal appeal. See Order Seeking Additional Comments (Order entered July 13, 2017). On

September 12, 2017, the OCA submitted comments in response to the Commission's Order Seeking Additional Comments. See OCA Additional Comments (filed Sept. 12, 2017). On February 28, 2019, the Commission issued a Final Rulemaking Order adopting revised final regulations in response to stakeholder comments. See Final Rulemaking Order (Order entered Feb. 28, 2019).

On August 28, 2019, the Commission issued a Secretarial Letter establishing a Chapter 56 Working Group for interested stakeholders. Secretarial Letter at 2. The Commission previously addressed a number of urgent issues in Chapter 56 that resulted from the Chapter 14 amendments. See Docket No. M-2014-2558824. The Secretarial Letter noted, however, that in the Commission's Final Rulemaking Order, the Commission deferred the following three issues to a working group: (1) Form of medical certificate – Section 1403; (2) Other court order – Section 1417 and; (3) Privacy guidelines – Section 1406(b)(1)(ii)(C). Secretarial Letter at 2-3. The Secretarial Letter further indicates that interested parties may file written comments on these issues on or before October 4, 2019. Id. at 4.

On October 24, 2019, the OCA submitted Comments in furtherance of the issues to be discussed at the Chapter 56 Working Group. On October 29, 2019, the Chapter 56 Working Group was held for interested stakeholders. On March 27, 2021 the Commission published a Tentative Order addressing the topics discussed at the Working Group. See 51 Pa.B. 1762 (Mar. 27, 2021). The Tentative Order further indicates that interested parties may file written comments on these issues within 45 days of publication in the Pennsylvania Bulletin. Id. The OCA submits the following Comments in furtherance of the issues discussed by the Chapter 56 Working Group.

II. COMMENTS

A. Form of Medical Certificate

While the OCA continues to recommend that medical professionals be provided flexibility in the form of medical certificate provided, the OCA agrees that having a sample form of medical certification available can be beneficial as a standardized option. In the Tentative Order, the Commission noted that the discussion reserved for the Chapter 56 Working Group included what elements the form of a medical certificate should include, whether it should be optional, whether the medical professional's license number should be required on the certificate, and whether medical certificate forms should be posted on utility websites. Tentative Order at 4-7.

Importantly, the Commission proposed a standard medical certificate form and noted as follows:

The proposed standard medical certificate form would include the five elements necessary for a valid medical certificate pursuant to the Commission's regulations.

Tentative Order at 6.

The five elements necessary for a valid medical certificate as listed by the Commission are as follows:

- (1) The name and address of the customer or applicant in whose name the account is registered.
- (2) The name and address of the afflicted person and relationship to the customer or applicant.
- (3) The anticipated length of the affliction.
- (4) The name, office address and telephone number of the certifying physician, nurse practitioner or physician assistant.
- (5) The signature of the certifying physician, nurse practitioner or physician assistant.

52 Pa. Code § 56.113.

The OCA notes, however, that the Request for Medical Certification form included in the Tentative Order contains a field for the “Account Number.” Tentative Order at App. A. The Tentative Order contains no further discussion regarding the requirement of an account number on the medical certificate.¹ The OCA submits that, as an account number on the medical certificate is not required by the Commission’s regulations or order, the Account Number field on the sample medical certificate form should be removed. Creating additional barriers to the completion of the medical certificate by requiring an account number be obtained by the medical professional is unreasonable.

The OCA submits that medical certification should be easily accessible for both consumers and the medical community. Consumers who face a medical emergency may also be dealing with a multitude of issues, in addition to the potential loss of service. Merely scheduling and having an opportunity to meet with a medical professional can result in delays in obtaining medical certification. The medical professional that is filling out the medical certificate is unlikely to have access to the consumer’s account number. A requirement to include an account number will only further delay processing of the medical certification form. Medical certification should not be cumbersome or unduly time-consuming, but should instead be a simple and straightforward process. The OCA submits that medical certification procedures should ensure that medical certificates are readily accessible to consumers, the medical community, and utilities, and that no unnecessary barriers or concerns are presented to the medical community.

¹ The OCA further notes that no discussion regarding the account number was provided in the Commission’s medical certificate guidance for consumers and medical professionals. See Tentative Order at App. B.

The OCA would also note its support for the Commission's determination that a medical professional's license number not be required for medical certification. Tentative Order at 6. The medical community, in particular, tends to be overburdened with the demands of their field. Creating additional requirements for medical certification that are unnecessary to the process should be avoided. As noted by the Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (collectively referred to as the Low Income and Consumer Rights Groups), the Commission has never requested medical license numbers for the submission of a medical certificate, and during decades of medical certification, the absence of a license number has not been an issue. Joint Comments of the Low Income and Consumer Rights Groups (filed Apr. 18, 2017) (hereinafter referred to as LICRG Comments) at 34. The OCA further agrees with the Low Income and Consumer Rights Groups that, although the General Assembly could have required medical certification to include a medical license number, it did not choose to require a medical license number. Id.

The OCA further notes that while there is value in creating an optional, standard, statewide format to provide greater consistency regarding the application of the medical certificate rules, the OCA continues to support the Commission's determination that a specific standard form should not be required. Final Rulemaking Order, Attachment One at 99. The OCA agrees with the Joint Comments of Community Justice Project; Pennsylvania Utility Law Project (PULP); Disability Rights Pennsylvania; Health, Education and Legal Assistance Project: A Medical-Legal Partnership at Widener University; Homeless Advocacy Project; Housing Alliance of Pennsylvania; Pennsylvania Coalition Against Domestic Violence; Pennsylvania Health Law Project; Women's Center, Inc. of Columbia & Montour Counties; and the Women's Resource

Center (collectively referred to as the Joint Commenters) and the Low Income and Consumer Rights Group that flexible form requirements would help to ensure that medically vulnerable consumers can access timely relief. Joint Commenters Comments at 6; LICRG Comments at 32-35.

The OCA agrees with the Commission's determination that the form should be publically available and easily accessible in a PDF or similar format on the Commission's website. Tentative Order at 6. Additionally, the OCA supports the Commission's proposal to place the medical certificate guidance contained in Appendix B to the Tentative Order on the Commission's website in order to assist in the understanding of the medical certification process.

The OCA appreciates the Commission's outreach to the stakeholders on this important issue. The OCA continues to recommend flexibility in the medical certification process in the form of medical certificate provided. The OCA agrees with the Commission that a publically available optional standardized medical certificate provides both ratepayers and medical professionals with additional clarity regarding the medical certification process in order to comply with the Commission's regulations. As such, the OCA submits that unnecessary requirements that are not required to comply with the Commission's regulation, such as the account number field, should be removed from the standardized form.

B. Other Court Orders Regarding Victims of Domestic Violence

Section 56.191 is being revised to ensure that information notifying customers of the special protections that are available for victims under a protection from abuse order are also available to customers with a court order issued by a court of competent jurisdiction in the Commonwealth, which provides clear evidence of domestic violence pursuant to Section 1417.

See Tentative Order at 7-14; Final Rulemaking Order, Attachment One at 116-120. The OCA supports the Commission's decision that PFAs, despite their registration status, are valid and enforceable and are entitled to the protections of the Commission's regulations at Chapter 56, Subchapters L-V, of the Pennsylvania Code. Tentative Order at 13. Moreover, the OCA supports the Commission's determination that PFAs that are issued outside of the Commonwealth are entitled to the protections of Subchapters L-V as they are not specifically limited to this Commonwealth. Tentative Order at 13. The OCA notes its general agreement with the comments filed by the Joint Commenters regarding this important topic. See Joint Commenters Chapter 56 Working Group Comments at 24-27.

C. Privacy Guidelines

In its Tentative Order, the Commission acknowledged that amended Chapter 14 referenced the Commission's privacy guidelines in Section 1406 of the Public Utility Code relating to termination of service and noted that electronic messaging must be consistent with the Commission's privacy guidelines. Tentative Order; see also 66 Pa. C.S. § 1406. The Commission further noted, however, that in the Final Rulemaking Order, the Commission made changes to the corresponding regulations in Title 52, Sections 56.93 and 56.33, by simply referencing the Commission's privacy guidelines without explaining what the Commission's privacy guidelines entail. Tentative Order at 14. The Commission further stated that current regulations are in place that address customer confidentiality and privacy. Tentative Order at 14; see also Title 52 Pa C.S. §§ 54.8 (privacy of customer information), 54.43 (disclosure for licensees), 56.32 (security and cash deposits), 62.78 (privacy of customer information), and 62.114 (security of cash deposits).

The Commission further proposed that there should be separate and distinct notices for ratepayers who choose to enroll in receiving electronic notifications related to personal contact for terminations. Tentative Order at 16. The Commission noted that the notice should explain and inform the customer that the enrollment is voluntary and that the customer's consent should not be a check box. Tentative Order at 16. The Commission additionally proposed that utilities send a reminder notice on an annual basis to all ratepayers reminding them to review their account information and other electronic notifications that the ratepayer may have signed up to receive. Tentative Order at 16.

The OCA supports the Commission's determination that e-mail addresses and telephone numbers should not be shared with third parties absent express and clearly defined permission from the ratepayer. See Tentative Order at 14-15. As noted in the OCA's initial Comments, information provided by customers for purposes of personal contact should be treated as private information and should not be shared. See OCA Comments at 2-3. To ensure that the customer's confidential information is protected, information submitted to the public utility for purposes of personal contact should not be shared with third parties just as telephone numbers are not shared with third parties. The Commission does not allow the release of telephone numbers for any purpose², and the OCA agrees with the Commission's determination that the same treatment should be provided for e-mail addresses and numbers used for text messaging. See Tentative Order at 15.

² See Interim Guidelines for Eligible Customer Lists, Docket No. M-2010-2183412, Final Order on Reconsideration, entered November 15, 2011; see also 52 Pa. Code § 54.8 (privacy of customer information); 52 Pa Code § 62.78 (privacy of customer information).

The OCA supports the Commission's proposal that there be a separate and distinct notice for ratepayers choosing to enroll in receiving electronic notifications. Tentative Order at 16; see also 52 Pa. Code §§ 59.63, 56.333. Moreover, the OCA agrees with the Commission that this separate and distinct notice should both explain to and inform the ratepayers that enrollment is voluntary and that the purpose is to electronically receive notification of a pending termination. Tentative Order at 16.

The OCA further supports the Commission's determination that the consent to receive electronic notifications should not be a check box. See Id. The OCA submits that the Commission must ensure that ratepayers affirmatively and directly provide their informed consent in order to enroll in electronic notification for termination purposes.

The OCA agrees with the Commission's proposal that ratepayers should be able to revoke their consent at any time and by any clear means. As the OCA noted at the Chapter 56 Working Group, any ratepayer communication that can be interpreted as a revocation of ratepayer's consent should be treated as a revocation of consent. As was further noted by the OCA, ratepayers should not be required to provide a formal statement in order to revoke their consent.

Lastly, the OCA supports the Commission's proposal that the utilities send a reminder notice on an annual basis to all ratepayers reminding them to review their account information and other electronic notifications that the ratepayer may have signed up to receive. See Tentative Order at 16.

III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide comments on the items addressed as in the Tentative Order. The OCA respectfully submits that the above comments

will highlight the OCA's concerns relative to these specific topics discussed by the Working Group and included in the Tentative Order.

Respectfully Submitted,

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